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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BUMBLE AND BUMBLE, LLC,

Plaintiff,

-against-

PRO'S CHOICE BEAUTY CARE, INC., CVS
PHARMACY, INC., ACTIVE BEAUTY, INC., DORIS
ARASH-EBEN, VISIBLE BEAUTY CORP., SALON
VISIBLE CORP., ARTURO VELA, and VARIOUS JOHN:
DOES and JANE DOES,

Defendants.
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PRO'S CHOICE BEAUTY CARE, INC.,

Third-Party Plaintiff,

-against-

PRIMARY ONE, LLC and E&M ESR, INC.,

Third-Party Defendants.
-----X

ACTIVE BEAUTY, INC., et ano,

Third-Party Plaintiffs,

-against

JOMAX INTERNATIONAL CORP. a/k/a JANA
INTERNATIONAL INVESTMENT CORP., et ano,

Third-Party Defendants.
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14-CV-6911 (VEC)(JLC)

ORDER

VALERIE CAPRONI, United States District Judge:

On June 9, 2015, this Court entered a default judgment in favor of Plaintiff Bumble and bumble, LLC (“Bumble”) against defendants Visible Beauty Corp., Salon Visible Corp., and Arturo Vela (collectively “the Vela Defendants”), and referred the matter to Magistrate Judge Cott for an inquest into damages. Dkts. 69, 70. On February 17, 2016, Magistrate Judge Cott issued a Report and Recommendation (“R&R”) recommending that judgment be entered against the Vela Defendants for Bumble in the amount of \$500,000 in statutory damages, and attorneys’ fees and costs in the amount of \$38,697.65 and \$2,579.63, respectively. The R&R further recommended that Bumble be awarded prejudgment interest (1) on \$200,000 of the total \$500,000 in statutory damages accruing from June 1, 2009, and (2) on the remaining \$300,000 in statutory damages accruing from December 1, 2011, in each case at the rate of 9% under New York Civil Practice Law and Rules § 5004, compounded annually. R&R at 30-31. The R&R also recommended that Bumble be awarded post-judgment interest on the entire amount of statutory damages in accordance with 28 U.S.C. § 1961(a). *Id.* at 31. No party has objected to the R&R.

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When, as here, no party objects to the Magistrate Judge’s report and recommendation the court may accept the report and recommendation provided that “there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985); Fed. R. Civ. P. 72(b) advisory committee’s note. Under a clear error standard of review, “[s]o long as there is a basis in the evidence for a challenged inference, [the court] do[es] not question

whether a different inference was available or more likely.” *United States v. Freeman*, 443 F.App’x 664, 666 (2d Cir. 2011) (quoting *Siewe v. Gonzales*, 480 F.3d 160, 168 (2d Cir. 2007)). Careful review of the R&R reveals that there is no facial error in its conclusions.

Finding no clear error, the Court adopts Magistrate Judge Cott’s R&R. Accordingly, the Court hereby finds that the Vela Defendants are jointly and severally liable to Bumble in the following amounts, and directs that judgment be entered accordingly:

- (1) \$500,000 in statutory damages;
- (2) \$38,697.65 in attorneys’ fees;
- (3) \$2,579.63 in costs;
- (4) Prejudgment interest on \$200,000 in statutory damages accruing from June 1, 2009 at the rate of 9%;
- (5) Prejudgment interest on \$300,000 in statutory damages accruing from December 1, 2011 at the rate of 9%; and
- (6) Post-judgment interest on statutory damages to be calculated pursuant to 28 U.S.C. § 1961(a).

Within one week of the date of entry of this Order, the settling parties shall file a stipulation of dismissal in accordance with the Court’s Order at docket number 140.

SO ORDERED.

**Date: April 27, 2016
New York, NY**


VALERIE CAPRONI
United States District Judge